



Control Number: 51812



Item Number: 215

Addendum StartPage: 0

OVERSIGHT OF THE ELECTRIC  
RELIABILITY COUNCIL OF TEXAS

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2021 JUN 10 AM 11:36  
BEFORE THE  
PUBLIC UTILITY COMMISSION  
OF TEXAS

**COMMENTS BY PAYLESS POWER SUPPORTING THE END OF  
THE MORATORIUM ON DISCONNECTIONS FOR NONPAYMENT**

Young Energy, LLC d/b/a Payless Power supports the observations of Commissioner McAdams in his June 1, 2021, memorandum regarding the moratorium on disconnections for nonpayment (“DNP moratorium”) and urges the Commission to end the prohibition on disconnections for nonpayment at its June 11 Open Meeting. There are other alternatives for relief that are better suited to assist customers with unpaid bills, including the support provided by Payless Power as explained below. Additionally, Payless Power responds herein to statements by some commentators opposing the end of the disconnection moratorium or seeking unnecessary exceptions to the normal disconnection process.

**Payless Power assists its customers in pursuing rent and utility relief.**

Payless Power is an exclusive provider of pre-paid service and serves approximately 34,000 households. Since the outset of Winter Storm Uri, Payless Power has complied with the Commission Order halting disconnections. During that time, Payless Power has consistently contacted each customer with past due charges to advise that government assistance programs and payment arrangements through the company are both available. Approximately 75% of the Payless Power customers have kept their accounts current. Payless Power began contacting each of the non-paying customers starting February 15, 2021, to advise of assistance through the Texas Rent Relief Program and LIHEAP.

Regarding customers who have remained past due since the outset of Uri, Payless Power can only assume that they are waiting for a service interruption before making payment arrangements. Payless Power's experience as a pre-paid provider has shown that this "wait till the bitter end" strategy is a common one for some customers. Payless Power actually receives more complaints from customers who are upset because their service was not disconnected after their balance had fallen below zero than complaints for lack of payment assistance options or flexibility of repayment terms.

While customers must request a Deferred Payment Plan ("DPP"), there is nothing in the rules stating that the REP cannot or should not advise its past due customers of this option. To the contrary Subst. R. §25.480(j)(2)(4) states: "A REP may voluntarily offer a deferred payment plan to customers who have expressed an inability to pay." Payless Power advises all customers with a balance below zero that they qualify for a deferred payment plan if they are unable to pay amounts sufficient to avoid disconnection or to initiate a reconnection. In addition, Payless Power makes this option available to qualified customers 24/7 through its online customer portal, Interactive Voice Response ("IVR") and electronic billing notifications. Payless Power is not aware of a single competitor that requires a customer to proactively bring up the DPP option before advising the customer that the option exists.

The rules as written provide a maximum for the payment amount that an REP can require at the inception of a DPP but does not prevent the REP from offering more generous terms. Payless Power currently will defer up to 100% of the customer's negative balance if an additional credit of \$20.00 is provided for the customer's future usage. Payless Power does not utilize a customer's credit history, payment history, or account tenure to determine whether the customer is eligible for deferred payment plans. The customer must simply have a past due balance, express an inability to pay, request the DPP after the option is explained to them, and acknowledge their understanding

of the terms. With a combination of these options, there is not a single Payless Power customer who will face a lengthy service interruption. Customers just have to contact the company, and help will be given.

Commission Rules do not currently cap repayment terms to five billing cycles. Subst. R. §25.480(j)(2)(B) states:

“The REP shall make available, at the customers option, the plans described in clauses (i) and (ii) of this paragraph. (i) a deferred payment plan with the initial payment amount no greater than 50% of the amount due. The deferred amount shall be paid by the customer in equal installments over at least five installments unless the customer agrees to fewer installments.”

Special attention must be paid to the phrase “over at least five installments.” The phrase indicates that REPS may offer longer payment terms, and in many cases this does happen. Furthermore, Subst. R. §25.498(i)(6)(B) states that the customer can agree to fewer or more frequent installments. Payless Power offers multiple repayment schedule options including monthly, weekly and daily repayment schedules, and these may extend beyond five installments. The daily repayment schedule is by far the most popular as it allows the customer to manage cash flow more effectively by spreading the deferred charges out in small daily increments.

One commenter requests that the Commission “insure that customer agreements are honored by REPs and new fees are not imposed on customers who are blocked from changing REPS by switch-holds.”<sup>1</sup> This is a request for extremely broad oversight from the Commission without specifying any particular concern. Currently, if a customer feels that an agreement made with their electric provider is not being honored, said customer can contact the Consumer Protection Division to file an informal complaint. In addition, the term “new fees” could apply to just about any charge applied to a customer’s account and should not be considered in such a broad

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<sup>1</sup> *Issues Related to the State of Disaster for the February 2021 Winter Weather Event*, Project No. 51812, Texas Legal Services Center Response to June 1, 2021 Memorandum of Commissioner Will McAdams (June 8, 2021), page 3.

context. For the record, Payless Power does not charge disconnection fees, reconnection fees, late fees, customer assistance fees, or fees for making a payment with a live agent, the IVR or the customer portal.

Payless Power also alerts its customers to rent relief from the Texas Department of Housing and Community Affairs (“TDHCA”) via a banner notification at the top of Payless Power’s web page<sup>2</sup> and through a rent relief page on the company’s website.<sup>3</sup> Furthermore, Payless Power customer care representatives are available to assist customers with their applications for these funds.<sup>4</sup> The customer care representatives can also advise consumers of the additional relief available from the Federal Emergency Management Agency (“FEMA”) disaster relief<sup>5</sup> and the Comprehensive Energy Assistance Program.<sup>6</sup>

**Payless Power serves customers that would not qualify for service from many other REPs.**

Payless Power takes multiple steps to support low-income customers that would not be eligible to receive service from other REPs. For example, Payless Power offers plans that require

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<sup>2</sup> Payless Power, Home Page, <https://paylesspower.com/> (“TX Utility & Rent Relief: Need help with past due rent and electric bills? Click here”) (accessed on June 9, 2021).

<sup>3</sup> Payless Power, “Texas Rent & Utility Relief Program,” <https://paylesspower.com/utility-bill-relief/> (accessed on June 9, 2021).

<sup>4</sup> Payless Power, “Texas Rent & Utility Relief Program,” <https://paylesspower.com/utility-bill-relief/> (“To expedite your application submission, we have set aside a few customer care representatives who can walk you through the entire process from start to finish.”) (accessed on June 9, 2021).

<sup>5</sup> Federal Emergency Management Agency, “Texas Severe Winter Storms DR-4586-TX,” <https://www.fema.gov/disaster/4586> (accessed on June 9, 2021).

<sup>6</sup> Texas Department of Housing and Community Affairs, “Comprehensive Energy Assistance Program (CEAP),” <https://www.tdhca.state.tx.us/community-affairs/ceap/> (accessed on June 9, 2021).

neither a deposit nor a credit check.<sup>7</sup> Payless Power also offers flexible payment options with both short-term and long-term agreements.<sup>8</sup>

**Customers have had long known that the disconnection moratorium which began in February was to be temporary.**

The public has been aware of the DNP moratorium for over four months. As explained above, the repeated communications to Payless customers have fully informed them that the DNP moratorium can't last forever and their interests are best served with a deferred payment plan. It is very likely that other REPs have been communicating in the same manner with their customers. So, customers are well aware that the moratorium will not last forever, and they certainly do not need an additional two months of lead time as some commentators have suggested.<sup>9</sup> The prohibition on disconnections will not keep these customers out of debt. Instead, these customers would be better served with deferred payment plans and by being directed, as Payless Power already does, to relief programs that will enable the customers to receive support for utility relief, rent relief, or other funding.

**Payless Power charges no payment fees or fees to place a customer on deferred payment plans.**

Another commentator asserts without evidence that "[u]nder a pre-paid plan most customers are required to pay a fee every time a payment is made."<sup>10</sup> This commentator further

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<sup>7</sup> See Payless Power, Electricity Deposit Cost: What to Expect <https://paylesspower.com/electricity-deposit-cost-what-to-expect/> (accessed on June 9, 2021); see also Electricity Plans, "Payless Power," available at <https://electricityplans.com/texas/providers/payless-power/> (accessed on June 9, 2021).

<sup>8</sup> Electricity Plans, "Payless Power," available at <https://electricityplans.com/texas/providers/payless-power/> (accessed on June 9, 2021).

<sup>9</sup> *Issues Related to the State of Disaster for the February 2021 Winter Weather Event*, Project No. 51812, Texas Legal Services Center Response to June 1, 2021 Memorandum of Commissioner Will McAdams (June 8, 2021), page 5.

<sup>10</sup> *Issues Related to the State of Disaster for the February 2021 Winter Weather Event*, Project No. 51812, Texas Legal Services Center Response to June 1, 2021 Memorandum of Commissioner Will McAdams (June 8, 2021), page 5.

states that such fees violate Subst. R. §§ 25.498(i)(10) and 25.480(j)(5)(D).<sup>11</sup> Regardless of whether such a practice actually violates PUC rules, Payless Power does not charge these fees.<sup>12</sup> Furthermore, Payless Power does not charge fees for payment processing, disconnection, reconnection, customer service, or any other hidden fee.<sup>13</sup> Nor does Payless Power charge late fees for past due balances. Most importantly, Payless Power does not assess any additional fees for establishing deferred payment plans.

Different REPs have different plans and offerings, and the charging of transaction fees or deferred payment plan fees by some other pre-paid REPs should not influence rulemaking and decision making that impacts all REPs. If there are concerns regarding specific practices, the Commission can address such practices separately from the disconnection moratorium that impacts all REPs and threatens the financial viability of the Texas competitive electric market.

**The current DNP moratorium has lasted longer than any previous prohibition; it's time to return to normal operating conditions.**

Prior disconnection moratoriums have only lasted a few days, but this disconnection moratorium has continued throughout the spring and now into the summer. Former PUC Chair DeAnn Walker stated during the February 21 emergency open meeting that the disconnect moratorium would last "until we get the financial part of this worked out which I'm hoping will be soon." The Texas Legislature has now adjourned after passing bills addressing the winter weather crisis, and it's time for a return to normalcy.

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<sup>11</sup> *Id.*

<sup>12</sup> See Payless Power, Home Page, <https://paylesspower.com/>, ("No Hidden Fees or Charges") and ("Simple and easy plans with no strings attached. Your only surprise will be the amount of savings you find!") (accessed on June 9, 2021).

<sup>13</sup> If a customer chooses to make a payment in cash at MoneyGram or another payment center that accepts cash, then that payment center may charge a fee. Payless Power does not receive any portion of the fee.

Every day that the DNP moratorium continues brings the competitive retail marketplace closer to losing its “competitive” edge for years to come. Many pre-paid providers have simply stopped marketing to and acquiring new customers during this moratorium further handicapping their ability to financially recover from the extraordinary costs resulting from February’s events. A pre-paid provider may require only \$75 for a connection balance;<sup>14</sup> an amount that will only cover roughly 15 days of service. The disconnection moratorium has lasted 109 days, meaning that pre-paid REPs have provided *94 days* of service without compensation from their non-paying customers. If this untenable situation continues, the Commission can expect more bankruptcies from REPs and a significant shrinking of the competitive market. The largest REPs may survive, but there will be less innovation, less price competition, and more frustrated consumers.

In order to return to their normal billing and collection practices for both prepay and post-pay customers, REPs need customers to pay their bills. REPs are already obligated to work with customers who express an inability to pay per the requirement to offer access to deferred payment plans.<sup>15</sup> The imposition of a broad disconnect moratorium on this market only serves to incent customers to believe they will not have to pay the bills they are currently accruing for electricity. Further, by continuing a disconnection moratorium on REPs while simultaneously allowing ERCOT to resume normal invoicing and settlement timelines under its protocols, the Commission has further hampered REPs' abilities to meet their ongoing market obligations.

**The DNP moratorium must end to avoid further jeopardy for the Texas electric utility industry.**

As a Retail Electric Provider, Payless Power understands the importance of community, family, and small business in Texas. Payless Power is committed to serving Texans, regardless of

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<sup>14</sup> 16 TAC 25(b)(1).

<sup>15</sup> *Issues Related to the State of Disaster for the February 2021 Winter Weather Event*, Project No. 51812, Order Directing Certain Actions and Granting Exceptions to Certain Rules (February 21, 2021), Page 2.



income or credit history, but in such a way that does not threaten the future of the competitive retail electric industry. As discussed during the Commission's June 3<sup>rd</sup> Open Meeting, the billing and collections activities by retail electric providers provide the funds paid to transmission and distribution utilities, and this liquidity is necessary to keep the electric system functioning. Continuation of the prohibition against disconnection for non-payment endangers the financial well-being of the system which will only harm consumers more.

Very truly yours,

*Mark Foster*

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